

REMARKS

The present communication responds to the non-final Office Action mailed August 12, 2005. In the Office Action, claims 1-27 were rejected and the drawings were objected to.

Claims 1-4, 6, 9-13 and 16-20 are hereby amended to improve clarity. The amendments do not add new matter.

Claims 22-25 are canceled.

Claims 28-51 have been added. The additional claims do not add new matter and are supported by the specification.

The objections to the drawings are traversed, but, in order to advance prosecution, claims 22-25 have been canceled.

Rejection under 35 U.S.C. § 112

Claims 1-25 were rejected under 35 U.S.C. § 112, second paragraph.

The § 112, second paragraph, rejection is traversed. However, as shown in the accompanying listing of the claims, the claims have been amended to more clearly claim the invention. In addition, claims 22-25 have been canceled.

Rejection under 35 U.S.C. § 102

Claims 1-27 were rejected under 35 U.S.C. § 102(e) over Miller et al. (U.S. Patent 6,887,270).

The § 102 rejection is traversed for at least the following reasons. Miller fails to disclose a cannula that increases in pliability during application as required by the independent claims. Rather, Miller discloses a medical device resistant to microbial growth and biofilm formation. Miller, at column 7, lines 56-59 states in relation to the medical devices disclosed, that “relatively higher vinyl acetate content copolymers may be beneficial in offsetting stiffness from coextruded barrier layers.” Miller also states at column 12, lines 16-19 “The relative rigidity or stiffness of such lower vinyl acetate content barrier layers may be offset somewhat by the use of higher vinyl acetate content matrix polymer layers or regions.” However, the above-mentioned statements related to higher vinyl acetate offsetting stiffness, and do not indicate that the higher vinyl acetate is a material having variable hardness. Therefore, Miller fails to disclose a cannula which increases in pliability during use that includes at least one material of variable hardness as required by the independent claims. Miller fails to disclose the elements required by at least the independent claims, and therefore, reconsideration and withdrawal of the § 102 rejection are requested.

Moreover, because claim 1 recites aspects not disclosed in Miller, and because claims 2-21 depend from claim 1 and recite additional aspects, claims 1-21 are allowable.

Additional claims 39-51 are novel over the prior art because the prior art does not disclose a bent cannula which increases its pliability during use. The claims are non-obvious over the prior art because none of the documents alone or in combination suggest to a person skilled in the art a bent cannula which increases its pliability during use.

Conclusion

This communication generates additional claim fees, and a check to cover the fees is enclosed herewith. The Office is also hereby authorized to charge any additional fees and/or credit any overpayments associated with this communication to Deposit Account No. 04-1420.

The application now stands in allowable form, and reconsideration and allowance are requested.

Respectfully submitted,

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